BEFORE THE U.S. DEPARTMENT OF LABOR

In the Matter of:	§	
	§	
JUAN LOZADA-LEONI,	§	
	§	
Complainant,	§	
	§	Case No. 2018-SOX-00004
v.	§	
	§	
MONEYGRAM INTERNATIONAL,	§	
	§	
Respondent.	§	

RESPONSE TO REVISED FIRST AMENDED COMPLAINT

Respondent MoneyGram Payment Systems, Inc., improperly named herein as MoneyGram International ("MoneyGram"), serves its Response to Complainant's Revised First Amended Complaint ("Complaint") filed by Complainant Juan Lozada-Leoni ("Complainant") and states:

I.

INTRODUCTION

In Section IV of its January 11, 2018, Notice of Case Assignment and Prehearing Order ("Order"), the Court directed MoneyGram to include nine enumerated types of information in this Response. Each is set forth below. The organization, or lack thereof, of the Complaint has made it difficult for MoneyGram to present the required information in the order requested, but MoneyGram has specifically identified the sections of the Response in which the information called for in the Order is provided.

II.

ANSWERS TO ALLEGATIONS IN SECTION I OF THE COMPLAINT ("FACTS")

1. MoneyGram states that Complainant was employed by MoneyGram Payment Systems, Inc., rather than by MoneyGram International, and admits the remaining allegations in Paragraph 1 of the Complaint.

2. MoneyGram admits the allegations in Paragraph 2 of the Complaint. Answering further, MoneyGram states that Complainant's job duties and responsibilities included but were not limited to the matters described in Paragraph 2.

3. MoneyGram admits the allegations in Paragraph 3 of the Complaint. Answering further, MoneyGram states that Complainant's job duties and responsibilities included but were not limited to the matters described in Paragraph 3.

4. MoneyGram admits the allegations in Paragraph 4 of the Complaint.

5. Regarding the allegations in Paragraph 5 of the Complaint, MoneyGram is without knowledge or information sufficient to permit it to admit or deny what Complaint alleges he "observed," and therefore denies the same. MoneyGram denies the existence of a pattern of improprieties with regard to the agents listed in Paragraph 5 of the Complaint.

6. MoneyGram denies the allegations in Paragraph 6 of the Complaint.

7. MoneyGram denies the allegations in Paragraph 7 of the Complaint.

8. Regarding the allegations in Paragraph 8 of the Complaint, MoneyGram admits that Complainant discussed certain concerns regarding the Individual Watch List or "IWL" program with Juan Manuel Gonzalez ("Gonzalez"), which related to issues known to exist prior to the commencement of Complainant's employment, and denies the remaining allegations, if any, in Paragraph 8 of the Complaint.

9. MoneyGram admits that Complainant expressed his opinions regarding the IWL program to Gonzalez, and denies the remaining allegations, if any, in Paragraph 9 of the Complaint.

10. MoneyGram denies the allegations in Paragraph 10 of the Complaint.

11. MoneyGram denies the allegations in Paragraph 11 of the Complaint.

12. MoneyGram denies the allegations in Paragraph 12 of the Complaint.

13. MoneyGram is without knowledge or information sufficient to permit it to admit or deny the allegations in Paragraph 13 of the Complaint. To the extent a further response is required, denied.

14. MoneyGram denies the allegations in Paragraph 14 of the Complaint.

15. MoneyGram denies the allegations in Paragraph 15 of the Complaint.

16. MoneyGram denies the allegations in Paragraph 16 of the Complaint.

17. MoneyGram is without knowledge or information sufficient to permit it to admit or deny the allegations in Paragraph 17 of the Complaint. To the extent a further response is required, denied.

18. MoneyGram admits that former MoneyGram agent Yanni Garden was arrested, and denies the remaining allegations, if any, in Paragraph 18 of the Complaint. Answering further, MoneyGram states that it cooperated with law enforcement and provided information to law enforcement that permitted law enforcement to proceed.

19. MoneyGram admits the allegations in Paragraph 19 of the Complaint.

20. MoneyGram admits the allegations in Paragraph 20 of the Complaint.

21. MoneyGram admits the allegations in Paragraph 21 of the Complaint.

22. MoneyGram admits the allegations in Paragraph 22 of the Complaint.

23. MoneyGram admits that Complainant notified MoneyGram's legal department of his opinions regarding MoneyGram's Strategic Account Oversight Program, and denies the remaining allegations in Paragraph 23 of the Complaint.

24. MoneyGram admits the allegations in Paragraph 24 of the Complaint.

25. MoneyGram denies the allegations in Paragraph 25 of the Complaint.

26. MoneyGram denies the allegations in Paragraph 26 of the Complaint.

27. MoneyGram denies the allegations in Paragraph 27 of the Complaint. Answering further, MoneyGram states that Gonzalez told Complainant that he was not a good fit, but denies that Gonzalez referenced "culture."

III.

ANSWER TO ALLEGATIONS IN SECTION II OF THE COMPLAINT ("FAILURE TO COMPLY WITH DPA")

28. MoneyGram admits that it is party to a 2012 Deferred Prosecution Agreement or "DPA," and denies the remaining allegations in Paragraph 28 of the Complaint and the unnumbered paragraph preceding Paragraph 28 of the Complaint. MoneyGram further states that the issue of whether or not it violated the DPA, which it denies, is not before this Court.

29. MoneyGram admits the allegations in Paragraph 29 of the Complaint.

30. MoneyGram denies the allegations in Paragraph 30 of the Complaint.

31. MoneyGram denies the allegations in Paragraph 31 of the Complaint.

32. MoneyGram denies the allegations in Paragraph 32 of the Complaint. Answering further, MoneyGram states that the compliance team was instructed to be careful that all information communicated to the monitor was accurate and was not speculative.

33. MoneyGram denies the allegations in Paragraph 33 of the Complaint. Answering further, MoneyGram states that Wal-Mart made quarterly visits to MoneyGram's Frisco office, and that the monitor was always aware of these visits.

34. MoneyGram denies the allegations in Paragraph 34 of the Complaint.

35. MoneyGram denies the allegations in Paragraph 35 of the Complaint.

36. MoneyGram denies the allegations in Paragraph 36 of the Complaint.

37. Regarding the allegations in Paragraph 37 of the Complaint, MoneyGram admits that it paid a fine in 2009 as part of an agreement with the Federal Trade Commission, denies that it supports or allows fraud in any way, and denies the remaining allegations in Paragraph 37 of the Complaint.

38. MoneyGram denies the allegations in Paragraph 38 of the Complaint.

39. MoneyGram denies the allegations in Paragraph 39 of the Complaint.

40. MoneyGram denies the allegations in Paragraph 40 of the Complaint.

41. MoneyGram denies the allegations in Paragraph 41 of the Complaint.

42. MoneyGram denies the allegations in Paragraph 42 of the Complaint.

43. MoneyGram denies the allegations in Paragraph 43 of the Complaint.

44. MoneyGram denies the allegations in Paragraph 44 of the Complaint.

45. MoneyGram denies the allegations in Paragraph 45 of the Complaint.

46. MoneyGram denies the allegations in Paragraph 46 of the Complaint.

47. MoneyGram denies the allegations in Paragraph 47 of the Complaint.

48. MoneyGram denies the allegations in Paragraph 48 of the Complaint.

49. MoneyGram denies the allegations in Paragraph 49 of the Complaint.

50. MoneyGram admits the allegations in Paragraph 50 of the Complaint.

51. MoneyGram denies the allegations in Paragraph 51 of the Complaint.

52. MoneyGram denies the allegations in Paragraph 52 of the Complaint.

53. MoneyGram denies the allegations in Paragraph 53 of the Complaint.

54. Regarding the allegations in Paragraph 54 of the Complaint, MoneyGram states that it does not know the identity of the persons Complainant apparently believes was the "main architect" of the identified programs, and that it is therefore without knowledge or information sufficient to permit it to admit or deny these allegations. To the extent a further response is required, denied. MoneyGram denies the remaining allegations, if any, in Paragraph 54 of the Complaint.

55. MoneyGram states that it operates training and oversight programs for all of its new agents, and denies the remaining allegations, if any, in Paragraph 55 of the Complaint.

56. MoneyGram denies the allegations in Paragraph 56 of the Complaint.

57. MoneyGram denies the allegations in Paragraph 57 of the Complaint.

58. MoneyGram denies the allegations in Paragraph 58 of the Complaint.

59. MoneyGram denies the allegations in Paragraph 59 of the Complaint.

IV.

ANSWERS TO SECTION III OF THE COMPLAINT ("SPECIFIC VIOLATIONS OF THE DPA")

60. MoneyGram denies the allegations in Paragraph 60 of the Complaint and the unnumbered paragraph preceding Paragraph 60 of the Complaint. MoneyGram further states that the issue of whether or not it violated the DPA, which it denies, is not before this Court.

61. MoneyGram denies the allegations in Paragraph 61 of the Complaint.

62. MoneyGram admits that Complainant emailed Gonzalez regarding concerns he had with the IWL program on or about January 17, 2017, and denies the remaining allegations in Paragraph 62 of the Complaint.

63. MoneyGram denies the allegations in Paragraph 63 of the Complaint.

64. MoneyGram denies the allegations in Paragraph 64 of the Complaint.

65. MoneyGram denies the allegations in Paragraph 65 of the Complaint.

66. MoneyGram denies the allegations in Paragraph 66 of the Complaint.

67. MoneyGram is without knowledge or information sufficient to allow it to admit or deny the allegations in Paragraph 67 of the Complaint regarding what Complainant may have "observed" and what opinions he formed based on those observations. To the extent a further response is required, denied.

68. MoneyGram denies the allegations in Paragraph 68 of the Complaint.

69. MoneyGram denies the allegations in Paragraph 69 of the Complaint.

70. MoneyGram admits that Complainant communicated certain concerns to Alan Brooks, and denies the allegations, if any, in Paragraph 70 of the Complaint.

71. MoneyGram admits the allegations in Paragraph 71 of the Complaint.

72. MoneyGram denies the allegations in Paragraph 72 of the Complaint.

73. MoneyGram denies the allegations in Paragraph 73 of the Complaint.

74. MoneyGram denies the allegations in Paragraph 74 of the Complaint. Answering further, MoneyGram states that among other measures, it provides guidance permitting agents who speak Spanish and Mandarin to file SARs.

75. MoneyGram denies the allegations in Paragraph 75 of the Complaint.

76. MoneyGram denies the allegations in Paragraph 76 of the Complaint. Answering further, MoneyGram admits that Complainant expressed a concern with a meeting he had participated in regarding Circle K, but never reported broader "problems with the Circle K account."

77. MoneyGram denies the allegations in Paragraph 77 of the Complaint. Answering further, MoneyGram states that Complainant and Gonzalez discussed the issue of turnover, but denies that the discussion was related to or in the context of compliance with the DPA.

78. MoneyGram admits that Gonzalez had more than one meeting with Complainant to address Complainant's performance deficiencies, and denies remaining the allegations in Paragraph 78 of the Complaint.

79. MoneyGram admits the allegations in Paragraph 79 of the Complaint.

80. MoneyGram denies the allegations in Paragraph 80 of the Complaint.

81. MoneyGram admits that Gonzalez had more than one meeting with Complainant to address Complainant's performance deficiencies, and denies remaining the allegations in Paragraph 81 of the Complaint.

82. MoneyGram denies the allegations in Paragraph 82 of the Complaint.

83. MoneyGram denies the allegations in Paragraph 83 of the Complaint.

84. MoneyGram denies the allegations in Paragraph 84 of the Complaint.

85. Regarding the allegations in Paragraph 85 of the Complaint, MoneyGram admits that Yanni Garden was arrested for money laundering, and is without knowledge or information sufficient to allow it to admit or deny the remaining allegations in Paragraph 85 of the Complaint. To the extent a further response is required, denied.

86. MoneyGram states that the allegations in Paragraph 86 are vague and ambiguous, and that it does not understand what Complainant means by the allegation. MoneyGram therefore is without knowledge or information sufficient to allow it to admit or deny the allegations. To the extent a further response is required, denied.

87. MoneyGram denies the allegations in Paragraph 87 of the Complaint.

88. MoneyGram denies the allegations in Paragraph 88 of the Complaint.

89. MoneyGram admits the allegations in Paragraph 89 of the Complaint.

90. MoneyGram admits that it removed Complainant from the Supervalu account and denies the remaining allegations in Paragraph 90 of the Complaint.

V.

ANSWERS TO SECTION IV OF THE COMPLAINT ("CHRONOLOGICAL NARRATIVE; COMPLAINANT'S PROTECTED ACTIVITY and RESPONDENT'S ADVERSE ACTION (in italics)")

In Section IV of the Order, the Court directed MoneyGram to include in this Response a statement either admitting or denying the occurrence of each protected activity and each adverse action alleged in the Complaint **[Order § IV(1)-(2)]**, to state whether it "knew of" each protected activity before it took the alleged adverse action **[Order § IV(3)]**, to state whether a retaliatory motive played any role in each alleged adverse action **[Order § IV(4)]**, and to state its reasons for each adverse action when it contends that the adverse action was unrelated to any protected activities **[Order § IV(5)]**.

MoneyGram understands Paragraphs 91-156 of the Complaint to be Complainant's attempt to identify protected activities in which he engaged and the associated adverse actions he contends MoneyGram took in "retaliation" for those protected activities. In Paragraphs 91-156 below, MoneyGram has admitted or denied the alleged protected activities and adverse actions.

[Order § IV(1)-(2)]. For instances in which it admits the alleged "protected activities" and "adverse actions" *occurred*, MoneyGram has stated whether it knew of the alleged protected activity at the time it took the adverse action. **[Order § IV(3)]**. MoneyGram states unequivocally that a retaliatory motive played no role in any adverse action alleged in the Complaint. **[Order § IV(4)]**. In addition, for instances in which it admits the alleged "adverse actions" occurred, MoneyGram has stated its reason(s) for taking the identified adverse action. **[Order § IV(5)]**. Complainant seems to have organized the alleged protected activities and adverse actions by set; for the sake of clarity, MoneyGram has inserted sub-headings delineating each "set."

A. The Call Center Conference Call with deBlonk.

91. Regarding the allegations in Paragraph 91 of the Complaint, MoneyGram states that Kyle deBlonk, misidentified in the Complaint as Kyle "Deblock," held periodic leadership listening calls and monthly management review calls, in which Complainant sometimes participated. MoneyGram admits that Complainant raised perceived concerns regarding MoneyGram's call center, but does not have knowledge or information indicating that these concerns were raised specifically on a conference call in November 2016, and therefore denies the allegation as stated.

92. MoneyGram is without knowledge or information sufficient to allow it to admit or deny the allegations in Paragraph 92 of the Complaint regarding Complainant's subjective feeling that deBlonk "seemed annoyed" at him, and denies the remaining allegations in Paragraph 92 of the Complaint. Because MoneyGram denies that this purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

B. The Call Center Conference Call with deBlonk, Part II.

93. MoneyGram denies the allegations in Paragraph 93 of the Complaint. In particular, to the extent Complainant contends that he "pointed out" during a November 2016 conference call that "Compliance was already instructing MoneyGram agents" to "collect additional information from callers identified as potential fraudsters," as stated above, MoneyGram does not have knowledge or information indicating that these concerns were raised specifically on a conference call in November 2016, and therefore denies the allegation as stated.

94. MoneyGram is without knowledge or information sufficient to allow it to admit or deny the allegations in Paragraph 94 of the Complaint regarding Complainant's subjective feelings. MoneyGram denies that Complainant "lost access" to deBlonk. Because MoneyGram denies that this purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

C. The November Call Regarding Claudia Raskey.

95. MoneyGram denies the allegations in Paragraph 95 of the Complaint. Answering further, to the extent Complainant intends to imply that the termination of Claudia Raskey was not reported to the monitor, the implication is false.

96. MoneyGram denies the allegations in Paragraph 96 of the Complaint.

97. MoneyGram denies the allegations in Paragraph 97 of the Complaint.

98. MoneyGram denies the allegations in Paragraph 98 of the Complaint.

99. MoneyGram denies the allegations in Paragraph 99 of the Complaint.

100. MoneyGram denies the allegations in Paragraph 100 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action"

occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

D. The Statement Regarding "Mission Readiness."

101. MoneyGram denies the allegations in Paragraph 101 of the Complaint.

102. MoneyGram denies the allegations in Paragraph 102 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading. Answering further, MoneyGram states that while Gonzalez on more than one occasion held one-on-one meetings with Complainant to discuss his job performance, those meetings were not conducted in retaliation for his having expressed his opinions. Rather, Gonzalez held the one-on-one meetings because Gonzalez was concerned about serious shortcomings in Complainant's job performance.

E. Communications with Peter Green.

103. MoneyGram denies the allegations in Paragraph 103 of the Complaint.

104. MoneyGram denies the allegations in Paragraph 104 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

105. MoneyGram denies the allegations in Paragraph 105 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

106. MoneyGram denies the allegations in Paragraph 106 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

F. Delta Works.

107. Regarding the allegations in Paragraph 107 of the Complaint, MoneyGram states that systems limitations, including those described in Paragraph 107, were known to MoneyGram prior to Complainant's date of hire, and that the issues were being addressed and enhancements were underway. MoneyGram admits that Complainant sent an "FYI" email to Gonzalez advising that Complainant was working with an internal group on an issue related to Delta Works.

108. MoneyGram denies the allegations in Paragraph 108 of the Complaint. Because MoneyGram denies that the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

G. The January 31 Meeting and IWL.

109. MoneyGram denies the allegations in Paragraph 109 of the Complaint.

110. MoneyGram is without knowledge or information sufficient to allow it to admit or deny the allegations in Paragraph 110 of the Complaint. To the extent a further response is required, denied.

111. MoneyGram is without knowledge or information sufficient to allow it to admit or deny the allegations in Paragraph 111 of the Complaint. To the extent a further response is required, denied.

112. MoneyGram denies the allegations in Paragraph 112 of the Complaint.

113. MoneyGram denies the allegations in Paragraph 113 of the Complaint.

114. MoneyGram denies the allegations in Paragraph 114 of the Complaint.

115. MoneyGram denies the allegations in Paragraph 115 of the Complaint.

116. MoneyGram denies the allegations in Paragraph 116 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

H. Schnucks.

117. Regarding the allegation in Paragraph 117 of the Complaint, MoneyGram states that Sheryl Stanhope reported an issue to MoneyGram regarding block requests. MoneyGram is without knowledge or information sufficient to allow it to admit or deny the remaining allegations in Paragraph 117 of the Complaint (*i.e.*, when and by what method Ms. Stanhope may have reported this issue to Complainant directly). To the extent a further response is required, denied.

118. MoneyGram denies the allegations in Paragraph 118 of the Complaint. Answering further, MoneyGram states that the reported issue regarding Schnucks was in relation to *one* individual, not multiple alleged "fraudsters."

119. MoneyGram admits the allegations in Paragraph 119 of the Complaint.

120. MoneyGram denies the allegations in Paragraph 120 of the Complaint. Because MoneyGram denies that the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

I. The New York City Trip (Language Barriers).

121. MoneyGram is without knowledge or information sufficient to allow it to admit or deny the allegations in Paragraph 121 of the Complaint. To the extent a further response is required, denied.

122. MoneyGram denies the allegations in Paragraph 122 of the Complaint.

123. MoneyGram denies the allegations in Paragraph 123 of the Complaint.

124. MoneyGram denies the allegations in Paragraph 124 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

J. The New York City Trip, Part II (Sylvia Gil).

125. MoneyGram denies the allegations in Paragraph 125 of the Complaint.

126. MoneyGram denies the allegations in Paragraph 126 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

K. The New York City Trip, Part III (Pressure on RCOs).

127. MoneyGram denies the allegations in Paragraph 127 of the Complaint.

128. MoneyGram denies the allegations in Paragraph 128 of the Complaint.

129. MoneyGram denies the allegations in Paragraph 129 of the Complaint.

130. MoneyGram denies the allegations in Paragraph 130 of the Complaint.

131. MoneyGram denies the allegations in Paragraph 131 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action"

occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

L. **The Miami RCO Conference.**

132. Regarding the allegations in Paragraph 132 of the Complaint, MoneyGram does not know what "incident" Complainant intends to reference, and therefore is without knowledge or information sufficient to allow it to admit or deny the allegations. To the extent a further response is required, denied.

133. MoneyGram is without knowledge or information sufficient to allow it to admit or deny the allegations in Paragraph 133 of the Complaint. To the extent a further response is required, denied.

134. MoneyGram is without knowledge or information sufficient to allow it to admit or deny the allegations in Paragraph 134 of the Complaint. To the extent a further response is required, denied.

135. MoneyGram denies the allegations in Paragraph 135 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

136. MoneyGram denies the allegations in Paragraph 136 of the Complaint. Because MoneyGram denies that the purported "protected activity" and the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

M. Supervalu (Discussion with Gonzalez).

137. Regarding the allegations in Paragraph 137 of the Complaint, MoneyGram admits that Complainant reported certain perceived concerns with Supervalu agents to Gonzalez, denies that the concerns alleged in this paragraph had or have any basis in fact, and denies the remaining allegations in Paragraph 137 of the Complaint.

138. MoneyGram denies the allegations in Paragraph 138 of the Complaint. Answering further, MoneyGram states that, in response to Complainant's raising of his perceived concerns with Supervalu, Gonzalez was not "furious" but instead wanted to obtain a full understanding of Complainant's concerns in order to determine their accuracy. Because MoneyGram denies that the purported "adverse action" of "becoming furious" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

N. Supervalu, Part II (Discussion with Ponce and Morillo).

139. MoneyGram admits the allegations in Paragraph 139 of the Complaint.

140. MoneyGram is without knowledge or information sufficient to allow it to admit or deny the allegations in Paragraph 140 of the Complaint. To the extent a further response is required, denied.

141. MoneyGram denies the allegations in Paragraph 141 of the Complaint. Answering further, MoneyGram states that Morillo was frustrated that Complainant had conducted a "spur of the moment" review of Supervalu during what had been scheduled as a business visit, and that Complainant had not done any of the necessary background work prior to that review (*e.g.*, reviewing information about the agents or their transaction history), particularly when that

background work would have revealed the inaccuracy of Complainant's belief that the ownership of these agents was unknown.

142. MoneyGram denies the allegations in Paragraph 142 of the Complaint. Because MoneyGram denies that the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

143. MoneyGram admits the allegations in Paragraph 143 of the Complaint. MoneyGram admits that it knew of Complainant's expressed concerns regarding certain Supervalu agents prior to terminating Complainant's employment, but denies that it terminated Complainant in retaliation for having raised those (inaccurate) concerns. Instead, MoneyGram terminated Complainant for poor job performance and because he was not a good fit for the job.

O. Supervalu, Part III (The Legal Clinic).

144. MoneyGram denies the allegations in Paragraph 144 of the Complaint. Answering further, MoneyGram states that Complainant communicated with and requested advice from Lea Pfeifer, not directly with or from John Tyson.

145. MoneyGram states that, based upon his assumption that factual information provided by Complainant was accurate – which later proved not to be the case – Tyson initially supported a recommendation of suspension of the agents at issue, and denies the remaining allegations, if any, in Paragraph 145 of the Complaint.

146. MoneyGram admits the allegations in Paragraph 146 of the Complaint. Answering further, MoneyGram states that when its legal department became aware of the truth of the situation (*i.e.*, when it became aware that the factual information reported by Complainant

was not accurate), the legal department determined that Gonzalez was the appropriate person to respond to Complainant's expressed concerns.

147. Regarding the allegations in Paragraph 147 of the Complaint, MoneyGram states that Complainant not only made factual misrepresentations in his conversation with Tyson, but also misrepresented to others the substance of his interactions with Tyson. MoneyGram admits that Tyson brought these misrepresentations to light. MoneyGram denies that Tyson brought Complainant's misrepresentations to light in retaliation for Complainant having sought advice from Tyson and the legal department. Rather, Tyson was motivated by a desire to correct Complainant's misrepresentations and to provide accurate legal advice to MoneyGram.

P. Supervalu, Part IV (Follow-Up with Tyson).

148. MoneyGram admits the allegations in Paragraph 148 of the Complaint.

149. Regarding the allegations in Paragraph 149 of the Complaint, MoneyGram admits that Tyson declined to further engage with Complainant after Complainant's emails became harassing. MoneyGram denies that Tyson's refusal to further engage Complainant was in retaliation for his having sought advice from Tyson and the legal department. Rather, Tyson was motivated by a desire to disengage from a harassing dialogue, particularly after Gonzalez had assumed responsibility for addressing Complainant's concerns regarding the Supervalu agents.

Q. Communication with Ponder.

150. MoneyGram denies the allegations in Paragraph 150 of the Complaint.

151. MoneyGram denies the allegations in Paragraph 151 of the Complaint. Because MoneyGram denies that the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

R. Final Discussions with Gonzalez.

152. MoneyGram admits the allegations in Paragraph 152 of the Complaint.

153. MoneyGram admits that Gonzalez did not provide a written response to Complainant. MoneyGram denies that Gonzalez's decision to not provide a written response was in retaliation for Complainant having provided a written rebuttal; rather, Gonzalez was motivated by a desire to discuss Complainant's remaining concerns in person.

154. MoneyGram states that it does not know what Complainant considers to be a "significant loss in communication," and therefore is without knowledge or information sufficient to allow it to admit or deny the allegations in Paragraph 154 of the Complaint. To the extent a further response is required, denied. Because MoneyGram denies that the purported "adverse action" occurred in the first instance, any attempt by MoneyGram to state whether it "knew of" the alleged protected activity before taking this alleged "adverse action" would be misleading.

155. MoneyGram admits that Gonzalez removed Complainant from the Supervalu account, and denies the remaining allegations, if any, in Paragraph 155 of the Complaint. MoneyGram denies that Gonzalez's decision to remove Complainant from the Supervalu account was in retaliation for Complainant having "question[ed] the strategy used by Gonzalez to handle the problematic Supervalu account." Rather, Gonzalez's decision was motivated by Complainant's failure to present accurate facts and by his failure to follow MoneyGram's policies, procedures, and instructions.

156. Regarding the allegations in Paragraph 156 of the Complaint, MoneyGram admits that it terminated Complainant's employment, states that Gonzalez told Complainant that he was not a good fit, and denies that Gonzalez referenced "culture." MoneyGram denies that its

decision to terminate Complainant's employment was in retaliation for his having reported concerns about the Supervalu agents, but rather was motivated by Complainant's poor job performance and the fact that Complainant was not a good fit at MoneyGram.

VI.

RESPONSES TO COMPLAINANT'S ENTIRELY DUPLICATIVE LISTS OF PURPORTED "PROTECTED ACTIVITES" AND "ADVERSE ACTIONS"

For reasons known only to himself, after using Section IV (Paragraphs 91 through 156) to identify each of his alleged "protected activities" and the "adverse actions" MoneyGram is alleged to have taken in response to each of them, Complainant has separately listed the protected activities and adverse actions in Sections V and VI (Paragraphs 157 through 210) of the Complaint. Out of an abundance of caution, MoneyGram repeats its responses below.

157. Regarding the duplicative allegations in Paragraph 157 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 77 of the Complaint.

158. Regarding the duplicative allegations in Paragraph 158 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 62 of the Complaint.

159. Regarding the duplicative allegations in Paragraph 159 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 65 of the Complaint.

160. Regarding the duplicative allegations in Paragraph 160 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 76 of the Complaint.

161. Regarding the duplicative allegations in Paragraph 161 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 91 of the Complaint.

162. Regarding the duplicative allegations in Paragraph 162 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 93 of the Complaint.

163. Regarding the duplicative allegations in Paragraph 163 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraphs 19, 23, and 25 of the Complaint.

164. Regarding the duplicative allegations in Paragraph 164 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 95 of the Complaint.

165. Regarding the duplicative allegations in Paragraph 165 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 96 of the Complaint.

166. Regarding the duplicative allegations in Paragraph 166 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 98 of the Complaint.

167. Regarding the duplicative allegations in Paragraph 167 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 99 of the Complaint.

168. Regarding the duplicative allegations in Paragraph 168 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraphs 12 and 101 of the Complaint.

169. Regarding the duplicative allegations in Paragraph 169 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 103 of the Complaint.

170. Regarding the duplicative allegations in Paragraph 170 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 64 and 107 of the Complaint.

171. Regarding the duplicative allegations in Paragraph 171 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 110 of the Complaint.

172. Regarding the duplicative allegations in Paragraph 172 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 112 of the Complaint.

173. Regarding the duplicative allegations in Paragraph 173 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 119 of the Complaint.

174. Regarding the duplicative allegations in Paragraph 174 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 123 of the Complaint.

175. Regarding the duplicative allegations in Paragraph 175 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 125 of the Complaint.

176. Regarding the duplicative allegations in Paragraph 176 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 128 of the Complaint.

177. Regarding the duplicative allegations in Paragraph 177 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 129 of the Complaint.

178. Regarding the duplicative allegations in Paragraph 178 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 130 of the Complaint.

179. Regarding the duplicative allegations in Paragraph 179 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 132 of the Complaint.

180. Regarding the duplicative allegations in Paragraph 180 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraphs 13, 17, and 133 of the Complaint.

181. Regarding the duplicative allegations in Paragraph 181 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 137 of the Complaint.

182. Regarding the duplicative allegations in Paragraph 182 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 144 of the Complaint.

183. Regarding the duplicative allegations in Paragraph 183 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 146 of the Complaint.

184. Regarding the duplicative allegations in Paragraph 184 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 148 of the Complaint.

185. Regarding the duplicative allegations in Paragraph 185 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 150 of the Complaint.

186. Regarding the duplicative allegations in Paragraph 186 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 92 of the Complaint.

187. Regarding the duplicative allegations in Paragraph 187 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 94 of the Complaint.

188. Regarding the duplicative allegations in Paragraph 188 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 100 of the Complaint.

189. Regarding the duplicative allegations in Paragraph 189 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 102 of the Complaint.

190. Regarding the duplicative allegations in Paragraph 190 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 104 of the Complaint.

191. Regarding the duplicative allegations in Paragraph 191 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 105 of the Complaint.

192. Regarding the duplicative allegations in Paragraph 192 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 106 of the Complaint.

193. Regarding the duplicative allegations in Paragraph 193 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 108 of the Complaint.

194. Regarding the duplicative allegations in Paragraph 194 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 116 of the Complaint.

195. Regarding the duplicative allegations in Paragraph 195 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 120 of the Complaint.

196. Regarding the duplicative allegations in Paragraph 196 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 124 of the Complaint.

197. Regarding the duplicative allegations in Paragraph 197 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 126 of the Complaint.

198. Regarding the duplicative allegations in Paragraph 198 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 131 of the Complaint.

199. Regarding the duplicative allegations in Paragraph 199 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 135 of the Complaint.

200. Regarding the duplicative allegations in Paragraph 200 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 136 of the Complaint.

201. Regarding the duplicative allegations in Paragraph 201 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraphs 11 and 138 of the Complaint.

202. Regarding the duplicative allegations in Paragraph 202 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 142 of the Complaint.

203. Regarding the duplicative allegations in Paragraph 203 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 143 of the Complaint.

204. Regarding the duplicative allegations in Paragraph 204 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 147 of the Complaint.

205. Regarding the duplicative allegations in Paragraph 205 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 149 of the Complaint.

206. Regarding the duplicative allegations in Paragraph 206 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 151 of the Complaint.

207. Regarding the duplicative allegations in Paragraph 207 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 153 of the Complaint.

208. Regarding the duplicative allegations in Paragraph 208 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 154 of the Complaint.

209. Regarding the duplicative allegations in Paragraph 209 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 155 of the Complaint.

210. Regarding the duplicative allegations in Paragraph 210 of the Complaint, MoneyGram incorporates by reference its answers above to Paragraph 156 of the Complaint.

VII.

ANSWER TO COMPLAINANT'S CAUSE OF ACTION

In Section VII (Paragraphs 211-215) of the Complaint, Complainant has alleged a cause of action for violation of the Sarbanes-Oxley Act. Although not specifically directed to do so, MoneyGram responds as follows:

211. MoneyGram denies the allegations in Paragraph 211 of the Complaint.

212. MoneyGram denies the allegations in Paragraph 212 of the Complaint and states that the question of whether it violated the Bank Secrecy Act and other federal anti-money laundering statutes, which it expressly denies, is not properly before this Court for determination.

213. MoneyGram denies the allegations in Paragraph 213 of the Complaint and states that the question of whether it violated the DPA, which it expressly denies, is not properly before this Court for determination.

214. MoneyGram denies the allegations in Paragraph 214 of the Complaint and states that the question of whether it made material misrepresentations to its shareholders, which it expressly denies, is not properly before this Court for determination.

215. MoneyGram denies the allegations in Paragraph 215 of the Complaint.

VIII.

OBJECTION TO RELIEF REQUESTED

216. Pursuant to **Section IV(6) of the Order**, MoneyGram objects to every type of relief requested in the Complaint. MoneyGram denies that it violated the Sarbanes-Oxley Act or in any other way violated any duties it owed to Complainant, and denies that Complainant is entitled to the relief sought in Section IX (Paragraphs 231-237) of the Complaint.

IX.

DEFENSES AND OTHER LEGAL CONTENTIONS

Pursuant to **Section IV of the Order**, including **Section IV(7)** relating to affirmative defenses, MoneyGram states that the following are the defenses and other principal contentions of law on which it relies. By identifying these contentions of law and defenses, MoneyGram does not assume the burden of proof regarding any of the elements of Complainant's cause of action, which are that (1) he engaged in a protected activity; (2) MoneyGram knew he engaged in a protected activity; (3) he suffered an adverse employment action; and (4) the protected activity was a contributing factor in the adverse action. *Halliburton, Inc. v. Administrative Review Bd.*, 771 F.3d 254, 258-259 (5th Cir. 2014).

217. MoneyGram states that Complainant has failed to state a claim upon which relief may be granted.

218. MoneyGram states that Complainant's claims are barred to the extent he fails to state each and every element of the cause of action pursuant to which he seeks relief.

219. MoneyGram denies that some or all of the alleged "protected activities" constitute protected activity or conduct under 18 U.S.C. § 1514A(a), which relates only to employees who "provide information, cause information to be provided, or otherwise assist in an investigation" regarding conduct the employee reasonably believes constitutes a violation of certain enumerated laws and regulations. 18 U.S.C. § 1514A(1).[1] Many if not most of the "protected activities" alleged by Complainant, even if true, do not constitute protected conduct under the Act. *See, e.g.*, *Allen v. Administrative Review Bd.*, 514 F.3d 468, 476-477 (5th Cir. 2008) (employee's complaint must "definitively and specifically relate" to one of the six enumerated categories in the Act).

220. MoneyGram denies that Complainant's belief that MoneyGram's conduct constituted a violation of one of the six enumerated categories was either objectively or subjectively reasonable. 18 U.S.C. § 1514A(a)(1) (Act protects employees who report information "regarding any conduct which the employee *reasonably believes* constitutes a violation") (emphasis added); *Wallace v. Tesoro Corp.*, 796 F.3d 468, 474-475 (5th Cir. 2015); *Allen*, 514 F.3d at 477 (an "employee's reasonable belief must be scrutinized under both a subjective and objective standard").

221. MoneyGram denies that it *knew* that Complainant engaged in some or all of the alleged "protected activities" at the time it engaged in the alleged "adverse actions." Without

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[1] The statute protects whistleblowers who provide information or assist in an investigation regarding conduct that the employee reasonably believes constitutes a violation of "section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders." 18 U.S.C. § 1514A(a)(1). The statute further protects whistleblowers who file, testify, or participate in proceedings relating to alleged violations of the same laws, 18 U.S.C. § 1514A(a)(2), but Complainant has not alleged the existence of or his participation in any such proceedings, and none exist.

limiting the generality of the foregoing, MoneyGram states by way of example that it did not know of one or more of Complainant's communications with Freshfields monitor Phil Underwood (to the extent those communications constitute protected activities in the first instance), and/or that it did not know of those communications prior to taking the adverse actions it is alleged to have taken.

222. MoneyGram denies that some or all of the alleged "adverse actions" constitute conduct prohibited by the Act, which provides that an employer may not "discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment" for having engaged in a statutorily-protected activity. 18 U.S.C. § 1514A(1). Many if not most of the "adverse actions" alleged by Complainant, even if true, do not constitute actionable adverse actions under the Act.

223. MoneyGram denies that Complainant's engaging in some or all of the alleged "protected activities" was a contributing factor in its alleged "adverse actions."

224. MoneyGram states that it would have taken each of the alleged employment decisions about which Complainant complains, including its decision to terminate Complainant's employment, in the absence of any protected activity under 18 U.S.C. § 1514A(a)(1)-(2), the existence of which MoneyGram denies. *Allen*, 514 F.3d at 476.

225. MoneyGram states that Complainant's claims are barred or limited, in whole or in part, by his failure to exhaust his administrative remedies. In particular, in his September 28, 2017, initial complaint presented to the Occupational Safety and Health Administration, Complainant alleged only that his "protected conduct" included "efforts to achieve compliance" with "anti-money laundering laws," and with the DPA that "prohibited future violations of the underlying anti-money laundering laws." [Initial Complaint § D.] The only alleged adverse

actions were "on-the-job harassment, verbal abuse, isolation, and marginalization," as well as the termination of his employment. [*Id.* § E.] Complainant's allegations in the Complaint are far broader than those he presented to OSHA for investigation, and all such claims are barred.

226. MoneyGram states that the Court lacks subject-matter jurisdiction to adjudicate Complainant's complaints regarding matters not presented to OSHA for investigation in his Initial Complaint, with regard to which he failed to comply with the statutory prerequisites to bringing the claims in this forum.

227. MoneyGram states that Complainant's claims are barred or limited, in whole or in part, by his failure to mitigate his alleged damages, if any.

X.

ADDITIONAL FACTUAL OR LEGAL DISPUTES NOT ADDRESSED IN THE COMPLAINT

228. Pursuant to **Section IV(8) of the Order**, MoneyGram states that although it disagrees with Complainant's characterization of the relevant facts as stated in the Complaint, MoneyGram has not identified any additional factual or legal disputes that the Court must resolve prior to determining Complainant's claims.

XI.

GOOD FAITH COMMUNICATION

229. Pursuant to **Section IV(9) of the Order**, MoneyGram states that it communicated with Complainant in a good faith effort to identify uncontroverted facts and legal issues to which the parties can stipulate.

XII.

RELIEF REQUESTED

For the foregoing reasons, MoneyGram respectfully requests that, upon final hearing, the Court make a determination that Complainant's claims and causes of action are without merit, and enter an order dismissing the same with prejudice; award MoneyGram its reasonable and necessary attorneys' fees and costs; and award MoneyGram all other relief, general or special, at law or in equity, to which MoneyGram may be justly entitled.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been served via email on all counsel of record on April 6 2018.

John M. Barcus